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International Chemical Workers Union Council/UFCW, Local 9c and PQ Corporation. Case 4-CB-8631

November 19, 2001

DECISION AND ORDER

BY CHAIRMAN HURTGEN AND MEMBERS LIEBMAN
AND WALSH

Upon a charge and amended charge filed by PQ Corporation (the Employer) on January 23 and March 5, 2001, the General Counsel of the National Labor Relations Board issued a complaint on June 22, 2001, against International Chemical Workers Union Council/UFCW, Local 9C, the Respondent, alleging that it has violated Section 8(b)(3) of the National Labor Relations Act. Although properly served copies of the charge, amended charge, and complaint, the Respondent failed to file an answer.

On September 4, 2001, the General Counsel filed a Motion for Summary Judgment with the Board. On September 7, 2001, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated August 22, 2001, notified the Respondent that unless an answer were received by August 29, 2001, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Employer has been a Pennsylvania corporation engaged in processing silica at its

Chester, Pennsylvania facility (the plant). During the 12-month period preceding the issuance of the complaint, the Employer, in conducting its business operations described above, sold and shipped goods valued in excess of \$50,000 directly to points outside the Commonwealth of Pennsylvania.

We find that the Employer is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that International Chemical Workers Union Council/UFCW, Local 9C is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the Respondent Union has been the designated exclusive collective-bargaining representative of all employees at the plant "with the exception of Office Employees, Laboratory and Technical Employees, Professional Employees, Supervisors" and guards as defined in the Act. The Employer has recognized the Respondent as the representative in a series of collective-bargaining agreements, the most recent of which is effective by its terms from 11 p.m., October 10, 1999, until 11 p.m., December 15, 2003.

At all material times, the unit described above has been appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act. At all material times, since at least October 10, 1999, based on Section 9(a) of the Act, the Respondent has been the exclusive collective-bargaining representative of the unit.

On about January 24, 2001, the Employer, in writing, requested the Respondent to furnish the Employer with "[t]he names of all employees who the Union contends were similarly-situated to Mr. Doohan and were treated differently than Mr. Doohan."

On about January 29, 2001, the Employer, in writing, requested the following information from the Respondent:

1. All documents that relate to Mr. Doohan's efforts to enroll in and complete coursework (outside education) in order to achieve a "B" rate within 4 years of joining the Spray Dry department.
2. All documents that the Union believes support its contention that Mr. Doohan was subjected to discriminatory treatment as compared to others.
3. All records of Mr. Doohan's income, expenses, liquid assets, 401(K) account activity, savings account activity, and checking account activity for the period of 11/04/96 to 11/03/00.

4. All documents that the Union believes support its contention that Mr. Doohan's discharge violated the collective-bargaining agreement.

The information requested by the Employer, as described above, is necessary for and relevant to the Employer's evaluation of a grievance filed by the Respondent on behalf of unit employee William Doohan.

Since about January 24, 2001, the Respondent has failed and refused to furnish to the Employer the information regarding the names of employees who were allegedly similarly situated to employee Doohan and who were treated differently than him.

Since about January 29, 2001, the Respondent has failed and refused to furnish to the Employer the information set forth in items 1-4 above.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has been failing and refusing to bargain collectively with an employer, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(b)(3) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has failed and refused to furnish the Employer with information that is necessary for and relevant to the Employer's evaluation of a grievance filed by the Respondent on behalf of unit employee William Doohan, we shall order the Respondent to furnish the Employer with the information it requested on January 24 and 29, 2001.

ORDER

The National Labor Relations Board orders that the Respondent, International Chemical Workers Union Council/UFCW, Local 9C, Chester, Pennsylvania, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Failing and refusing to furnish the Employer with information that is necessary for and relevant to the Employer's evaluation of grievances filed by the Respondent on behalf of unit employees.

(b) In any like or related manner refusing to bargain with the Employer.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish to the Employer in a timely fashion the information it requested on January 24 and 29, 2001.

(b) Within 14 days after service by the Region, post at its business office and meeting halls in Chester, Pennsylvania, copies of the attached notice marked "Appendix¹." Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees and members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material.

(c) Within 14 days after service by the Region, deliver to the Regional Director for Region 4 signed copies of the notice in sufficient numbers for posting by the Employer at its Chester, Pennsylvania facility, if it is willing, in all places where notices to employees are customarily posted.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. November 19, 2001

Peter J. Hurtgen,	Chairman
Wilma B. Liebman,	Member
Dennis P. Walsh,	Member

APPENDIX

NOTICE TO EMPLOYEES AND MEMBERS

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government
The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to furnish the PQ Corporation with the information that is necessary for and rele-

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

vant to the Employer's evaluation of grievances filed by us on behalf of unit employees.

WE WILL NOT in any like or related manner refuse to bargain collectively with the Employer.

WE WILL furnish to the Employer in a timely fashion the information it requested on January 24 and 29, 2001.

INTERNATIONAL CHEMICAL WORKERS UNION
COUNCIL/UFCS, LOCAL 9C